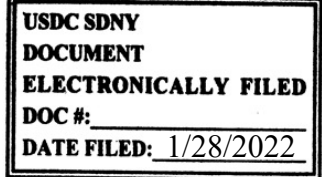




CRAIG WENNER
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January 26, 2022

BY ECF

Honorable Alison J. Nathan
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

The Hon. Alison J. Nathan has referred this case to the undersigned for General Pretrial Supervision, which includes responding to this request. The Letter Rogatory is still necessary, and the Kazakh Entities will be submitting questions within the time period allowed. **SO ORDERED:**

Katharine H. Parker
HON. KATHARINE H. PARKER
UNITED STATES MAGISTRATE JUDGE
1/28/2022

**Re: *City of Almaty, Kazakhstan, et ano. v. Felix Sater, et al.,*
Case No. 19 Civ. 2645 [rel. 15 Civ. 5345] (AJN) (KHP)**

Dear Judge Nathan:

We represent the City of Almaty, Kazakhstan and BTA Bank (the “Kazakh Entities”). We write with an update concerning the outstanding request to the Geneva Court of First Instance (“Geneva Court”) for discovery pursuant to 28 U.S.C. § 1781(b) and the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, Mar. 18, 1970, 23 U.S.T. 2555, 847 U.N.T.S. 231 (the “Letter Rogatory”). We understand that the Geneva Court has requested that this Court indicate whether the outstanding depositions of Ilyas and Leila Khrapunov are still required. For the reasons stated below, we respectfully request that the Court so order this letter, indicating that execution of the Letter Rogatory by the Geneva Court is still needed.

By way of background, on November 11, 2020, the Kazakh Entities submitted the Letter Rogatory to this Court requesting the deposition testimony of Ilyas Khrapunov and Leila Khrapunova. The Court granted the request on November 12, 2020. [See ECF No. 233.] On January 25, 2021, the Geneva Court granted the request to depose the Khrapunovs. The Geneva Court informed the Kazakh Entities that it would conduct the questioning of the witnesses and requested that the Kazakh Entities submit a list of deposition questions to the Geneva Court. The Kazakh Entities’ submission in response to the Geneva Court’s request has been delayed due to the disruption caused by Mr. Sater’s replacement of counsel, Mr. Sater’s request to extend discovery to permit the parties to pursue mediation, and the ongoing COVID-19 pandemic. On January 12, 2022, the Kazakh Entities provided counsel for the defendants a draft list of deposition questions. As of the date of this letter, the defendants have not provided comments. The Kazakh Entities anticipate providing the draft questions to their local Swiss counsel this Friday, January 28, who will then transmit the questions to the Geneva Court. Our understanding is that the Geneva Court will then schedule the depositions.

On January 13, 2022, the Geneva Court requested that this Court confirm whether the Letter Rogatory is still necessary and to provide a list of questions to be put to the witnesses. A copy of the order from the Geneva Court and a machine translation is attached to this letter as Exhibit A. Because the matter is still within the discovery period provided by Judge Parker and the fact that draft questions have already been exchanged between the parties, we respectfully request that the Court so order this letter, indicating that execution of the Letter Rogatory is still necessary and that the Kazakh Entities will be submitting the questions within the period requested

BSF

by the Geneva Court.

Thank you for your consideration of this request.

Respectfully,

/s/ Craig Wenner
Craig Wenner

cc: All counsel of record via ECF.

Exhibit A



République et canton de Genève
POUVOIR JUDICIAIRE
Tribunal civil

Homburger Eingang

14. Jan. 2022

Scan - Frist

COPIE

Tribunal de première instance
Rue de l'Athénée 6-8
Case postale 3736
1211 GENEVE 3

Réf: **CR/47/2020 – 5**

à rappeler lors de toute communication

ORDONNANCE DU 13 JAN. 2022

Rendue dans le cadre de l'entraide judiciaire internationale requise par the Honorable Alison J. Nathan, Juge auprès de United States District Court for the Southern District of New York

Vu la requête d'entraide internationale en matière civile dans le cadre de l'affaire LA VILLE D'ALMATY, KAZAKHSTAN et BTA BANK JSC c/ SATER Félix et autres, visant à l'audition en qualité de témoins de Leila KHRAPUNOVA et d'Ilyas KHRAPUNOV, reçue par le Tribunal de première instance le 24 novembre 2020.

Vu le courrier envoyé par le Tribunal de céans à l'autorité requérante le 25 janvier 2021, sollicitant une liste de questions à poser aux témoins.

Vu l'absence de réponse de la part de celle-ci, malgré le courrier de relance du 17 mai 2021.

Vu le courrier des avocats suisses de LA VILLE D'ALMATY du 2 août 2021, selon lequel la procédure en cours aux Etats-Unis avait été retardée, mais que des informations devraient parvenir au Tribunal de première instance au cours des prochaines semaines.

Attendu que tel n'a pas été le cas.

Qu'il sied en conséquence d'impartir un délai à l'autorité requérante pour qu'elle indique si l'exécution de sa commission rogatoire est toujours sollicitée et, cas échéant, fournisse la liste des questions à poser aux témoins.



République et canton de Genève
POUVOIR JUDICIAIRE
Tribunal civil

Par ces motifs

LE TRIBUNAL :

1. Impartit à l'Honorable Alison J. Nathan, Juge auprès de United States District Court for the Southern District of New York un délai de deux mois suivant la réception de la présente ordonnance pour indiquer si l'exécution de la commission rogatoire est toujours sollicitée et, cas échéant, fournir la liste des questions à poser aux témoins.
2. Dit qu'à défaut la commission rogatoire sera retournée non exécutée.

Catherine HEKIMI

Juge

Conformément aux articles 319 ss du Code de procédure civile (CPC), la présente décision peut faire l'objet d'un recours par devant la Cour de justice, Place du Bourg-de-Four, case postale 3108, 1211 Genève 3, dans les 10 jours qui suivent sa notification (art. 321 al. 2 CPC).

La présente ordonnance est communiquée pour notification à l'autorité requérante par le greffe
le **13 JAN. 2022**

Copie en est transmise à Me Balz GROSS et Claudio BAZZANI.

English machine translation of the French original



Republic and Canton of Geneva
Judicial Power
Civil Court

COPY

Court of First Instance
Rue de l'Athenee 6-8
P.O. Box 3736
1211 GENEVA 3

Ref : CR/47/2020 - 5

to be remembered in all communications

ORDER OF JAN. 13 2022

Issued pursuant to a request for
international judicial assistance by
the Honorable Alison J. Nathan, Judge of the United States District Court for the Southern District of New York

Having regard to the request for international assistance in civil matters in the case of CITY OF ALMATY, KAZAKHSTAN and BTA BANK JSC v. SATER Felix and others, for the hearing as witnesses of Leila KHRAPUNOVA and Ilyas KHRAPUNOV, received by the Court SATER Felix and others, for the hearing as witnesses of Leila KHRAPUNOVA and Ilyas KHRAPUNOV, received by the Court of First Instance on 24 November 2020.

In view of the letter sent by the Court of First Instance to the requesting authority on January 25, 2021, requesting a list of questions to be asked to the witnesses.

In view of the lack of response from the latter, despite the reminder letter of May 17, 2021.

In view of the letter from the Swiss counsel of THE CITY OF ALMATY dated August 2, 2021, according to which the procedure underway in the United States had been delayed, but that information should reach the Court of First Instance in the next few weeks.

Whereas this was not the case.

That the requesting authority should therefore be given time to indicate whether the execution of its letter rogatory is still requested and, if so, to provide a list of questions to be put to the witnesses.

English machine translation of the French original



Republic and Canton of Geneva
JUDICIAL POWER
Civil Court

For these reasons

THE COURT:

1. Grants the Honorable Alison J. Nathan, Judge of the United States District Court for the Southern District of New York, two months from receipt of this Order to indicate whether execution of the Letter Rogatory is still sought and, if so, to provide a list of questions to be asked of witnesses.
2. States that failing this, the letter rogatory will be returned unexecuted.

In accordance with articles 319 ff of the Code of Civil Procedure (CPC), the present decision may be appealed before the Court of Justice, Place du Bourg-de-Four, P.O. Box 3108, 1211 Geneva 3, within 10 days of its notification (art. 321 al. 2 CPC).

This order shall be communicated to the requesting authority for notification by the Registry
JAN. 13. 2022

A copy of this document is sent to Lawyers Balz GROSS and Claudio BAZZANI.

Sig.

Catherine HEKMI

Judge